

Remarks

Claims 1-22 are pending in the application.

Claims 1-15 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott et al. US 20040022237, hereinafter "Elliott" in view of H. Schulrinne et al. IETF RFC 3550 "RTP: A Transport Protocol for Real-Time Applications," July 2003, hereinafter "RFC 3550."

Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott in view of RFC 3550, further in view of Hooper et al. U.S. 20040252686 A1, hereinafter Hooper.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an

independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. 103(a)

Claims 1-15 and 18-22

Claims 1-15 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott in view of RFC 3550. The rejection is traversed.

Claims 1-13

Elliott and RFC 3550, alone or in combination, fail to teach or suggest all the claim elements, as claimed in Applicants' claim 1.

Namely, Elliott and RFC 3550, alone or in combination, fail to teach or suggest at least the limitations of "obtaining, at the first location, information relevant to the quality of service of voice calls being transmitted from the first location to the second location via the network path," "calculating, based on said information, a parameter indicative of a congestion status of the network path from the first location to the second location," and "accepting the new call into the IP network at the first location in the case of said parameter not exceeding an upper threshold," as claimed in Applicants' claim 1.

Elliott discloses an architecture for communicating voice and data over a packet-switched network. Specifically, Elliott discloses that the architecture includes soft switch sites, a data network, a provisioning component, a network event component, and a network management component. (Elliott, Abstract).

Elliott, however, alone or in combination with RFC 3550, fails to disclose Applicants' claim 1, as a whole. Namely, Elliott fails to teach or suggest at least the limitations of "obtaining, at the first location, information relevant to the quality of service of voice calls being transmitted from the first location to the second location via the network path," "calculating, based on said information, a parameter indicative of a congestion status of the network path from the first location to the second location," and

“accepting the new call into the IP network at the first location in the case of said parameter not exceeding an upper threshold,” as claimed in Applicants’ claim 1.

Rather, although Elliott describes a system that permits packet switching of voice calls and data calls through a data network, Elliott is devoid of any teaching or suggestion of performing call admission control as claimed in Applicants’ claim 1. Elliott fails to teach or suggest obtaining information relevant to the quality of service of voice calls being transmitted from a first location to a second location via an IP network and, thus, must also fail to teach or suggest calculating, based on such information, a parameter indicative of a congestion status of the network path from the first location to the second location. Furthermore, Elliott fails to teach or suggest accepting a new call into the IP network at the first location in the case of the parameter not exceeding an upper threshold, as claimed in Applicants’ claim 1.

First, Applicants note that Elliott fails to teach or suggest obtaining information relevant to the quality of service of voice calls being transmitted from the first location to the second location via the network path, as claimed in Applicants’ claim 1.

In the Office Action, the Examiner asserts that elements 126 and 130 of Elliott teach the first and second locations of Applicants’ claim 1, respectively, and further asserts that the term “packet loss” disclosed in Elliott teaches the “information relevant to the quality of service of voice calls” of Applicants’ claim 1. Applicants note that even assuming arguendo that the Examiner’s assertions are correct (which Applicants maintain that they are not), the Examiner has failed to cite any portion of Elliott that discloses Applicants’ specific limitation of obtaining, at a first location, information relevant to the quality of service of voice calls being transmitted from the first location to the second location via a network path, as claimed in Applicants’ claim 1. The Examiner has failed to cite any portion of Elliott that discusses packet loss within the context of a network path between elements 126 and 130, much less that information indicative of packet loss is obtained at element 126 for voice calls being transmitted from element 126 to element 130 via a network path. Rather, the Examiner mere points to disparate portions of Elliott and concludes that Elliott discloses this limitation of Applicants’ claim 1, without citing any portion of Elliott which supports such a conclusion. Applicants respectfully request that the Examiner point out exactly where in Elliott there is any teaching or suggestion

that element 126 obtains information relevant to the quality of service of voice calls being transmitted from element 126 to element 130 via a network path. Elliott is devoid of any such teachings and, thus, fails to teach or suggest obtaining information relevant to the quality of service of voice calls being transmitted from the first location to the second location via the network path, as claimed in Applicants' claim 1.

In the Office Action, the Examiner cites a specific portion of Elliott (namely, Para. 1493), asserting that the cited portion of Elliott discloses this limitation. The cited portion of Elliott, however, states that "FIG. 21B illustrates an example outage recovery scenario 2116. Outage recovery scenario 2116 can be used in the event of, for example, a fiber cut, a period of unacceptable latency or a period of unacceptable packet loss failure in data network 112." Applicants respectfully request that the Examiner point out exactly where in this portion of Elliott there is any teaching or suggestion of obtaining information relevant to the quality of service of voice calls. The cited portion of Elliott merely states that an outage recovery scenario can be used in the case of an unacceptable packet loss failure. A statement that an outage recovery scenario can be used in the case of an unacceptable packet loss failure, as disclosed in Elliott, simply does not teach or suggest obtaining information relevant to the quality of service of voice calls being transmitted from the first location to the second location via the network path, as claimed in Applicants' claim 1.

Second, Applicants note that Elliott fails to teach or suggest a parameter indicative of a congestion status of a network path from a first location to a second location, as claimed in Applicants' claim 1. In the Office Action, the Examiner cites a specific portion of Elliott (namely, Packet Loss Threshold in Table 147), asserting that the cited portion of Elliott discloses this limitation. Elliott, however, is devoid of any teaching or suggestion that the Packet Loss Threshold listed in Table 147 is a parameter that is indicative of a congestion status of a network path from a first location to a second location, as claimed in Applicants' claim 1. Thus, even assuming arguendo that the Packet Loss Threshold listed in Table 147 of Elliott may be interpreted as disclosing a parameter indicative of a congestion status, Elliott would still fail to teach or suggest a parameter indicative of a congestion status of a network path from a first location to a second location, as claimed in Applicants claim 1.

Third, Applicants further note that the Examiner has failed to cite any portion of Elliott in support of the assertion that Elliott discloses Applicants' limitation of accepting a new call into the IP network in the case of said parameter not exceeding an upper threshold. Rather, as noted in Applicants' previous response, the Examiner merely constructs an example, which is independent of Elliott, in an attempt to meet the limitation. Thus, the Examiner's rejection of Applicants' claim 1 in view of Elliott and RFC 3550 appears to be improper in that the Examiner does not rely on Elliott or RFC 3550 to show Applicants' limitation of "accepting the new call into the IP network at the first location in the case of said parameter not exceeding an upper threshold," and does not provide any other basis for the assertion that this limitation is known.

Thus, Elliott fails to teach or suggest Applicants' claim 1, as a whole.

Furthermore, RFC 3550 fails to bridge the substantial gap between Elliott and Applicants' claim 1.

RFC 3550 discloses the Real-Time Transport Protocol (RTP). Specifically, RFC 3550 discloses message formats, header fields, session multiplexing, and other specifics of the RTP. Additionally, RFC 3550 discloses details of the RTP Control Protocol (RTCP), such as packet formats, packet send and receive rules, and other specifics of the RTCP.

RFC 3550, however, alone or in combination with Elliott, fails to disclose Applicants' claim 1, as a whole. Namely, RFC 3550 fails to teach or suggest at least the limitations of "obtaining, at the first location, information relevant to the quality of service of voice calls being transmitted from the first location to the second location via the network path," "calculating, based on said information, a parameter indicative of a congestion status of the network path from the first location to the second location," and "accepting the new call into the IP network at the first location in the case of said parameter not exceeding an upper threshold," as claimed in Applicants' claim 1.

Rather, although RFC 3550 discloses RTCP sender and receiver reports, RFC 3550 is devoid of any teaching or suggestion of how a new call is accepted into an IP network, much less that a new call is accepted into the IP network where a parameter associated with quality of service of voice calls does not exceed an upper threshold, as claimed in Applicants' claim 1. RFC 3550 is devoid of any teaching or suggestion of

calculating a parameter indicative of a congestion status of a network path between a first location and a second location based on information relevant to the quality of service of voice calls being transmitted from the first location to the second location. RFC 3550 is devoid of any teaching or suggestion of any threshold comparisons. As such, RFC 3550, alone or in combination with Elliott, fails to teach or suggest performing call admission control as claimed in Applicants' claim 1.

As such, Elliott and RFC 3550, alone or in combination, fail to teach or suggest Applicants' claim 1, as a whole.

Furthermore, as noted hereinabove, the Examiner's rejection of Applicants' claim 1 in view of Elliott and RFC 3550 appears to be improper in that the Examiner does not rely on Elliott or RFC 3550 to show Applicants' limitation of "accepting the new call into the IP network at the first location in the case of said parameter not exceeding an upper threshold." Rather, the Examiner merely constructs an example, which is independent of Elliott and RFC 3550, in an attempt to meet the limitation. Thus, since the Examiner has failed to cite any basis for the example asserted by the Examiner to meet this limitation, the Examiner has failed to establish a prima facie case of obviousness of Applicants' claim 1.

Thus, at least for these reasons, claim 1 is allowable over the combination of Elliott and RFC 3550. Furthermore, since all of the dependent claims that depend from the independent claim include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over the combination of Elliott and RFC 3550.

Therefore, the rejection should be withdrawn.

Claims 14-15 and 18-22

The Office Action failed to establish a *prima facie* case of obviousness, because Elliott fails to teach or suggest all the claim elements.

Elliott discloses an architecture for communicating voice and data over a packet-switched network. Specifically, Elliott discloses that the architecture includes soft switch sites, a data network, a provisioning component, a network event component, and a network management component. (Elliott, Abstract).

As described hereinabove with respect to claim 1, Elliott fails to teach or suggest at least the limitations of “calculating, based on said information, a parameter indicative of a congestion status of the network path from the first location to the second location” and “accepting the new call into the IP network at the first location in the case of said parameter not exceeding an upper threshold,” as claimed in Applicants’ claim 1.

Thus, Applicants submit that, at least for the reasons described hereinabove with respect to claim 1, Elliott also fails to teach or suggest at least the limitation of “a third circuit for: calculating, based on the received quality-of-service information, a parameter indicative of a congestion status of a network path between a first gateway and a second gateway; and determining, by comparing said parameter to at least one threshold, whether a new voice call is to be accepted into the internet protocol network via the first circuit,” as claimed in Applicants’ claim 14.

As such, Elliott fails to teach or suggest Applicants’ claim 14, as a whole. Thus, claim 14 is allowable over Elliott. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Elliott.

Therefore, the rejection should be withdrawn.

Claims 16-17

Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott in view of RFC 3550, further in view of Hooper et al. U.S. 20040252686 A1, hereinafter Hooper. The rejection is traversed.

Each ground of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. 103 given Elliott in view of RFC 3550. Since the rejection under 35 U.S.C. 103 given Elliott in view of RFC 3550 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Hooper supplies that which is missing from Elliott in view of RFC 3550 to render the independent claims obvious, these grounds of rejection cannot be maintained.

Therefore, the rejection should be withdrawn.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 12/28/08



Eamon J. Wall
Registration No. 39,414
Attorney for Applicants

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808